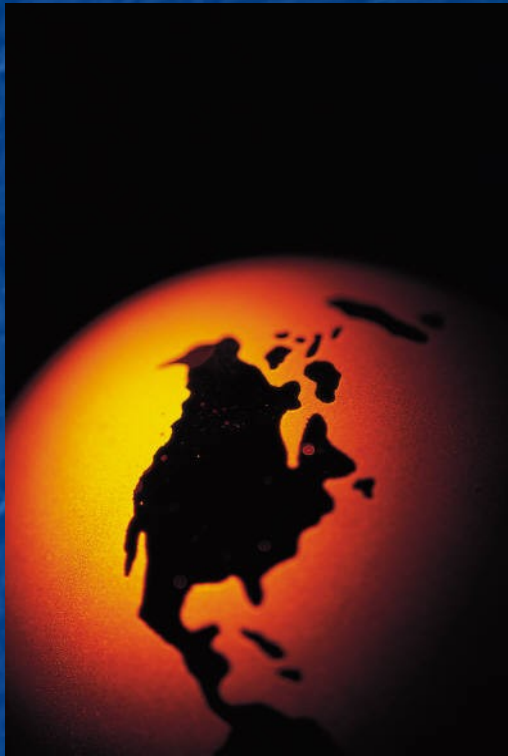


# BACKGROUND

## Efforts in Other States

Government Competition and  
Privatization Subcommittee

Office of Legislative Research and General Counsel  
June 27, 2007



# Types of Information



Target



Umbrella



More Detail

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector





## Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of definitions of “privatization”:

“The definition of privatization varies from one person to the next. A widely held definition is that it is a process of hiring private businesses to produce public goods and services or to operate government programs.” *NCSL, Legisbrief (1/98)*

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of definitions of “privatization”:

“Privatization is commonly defined as any process aimed at shifting functions and responsibilities, in whole or in part, from the government to private sectors.” *GAO, Privatization, Lessons Learned by State and Local Governments (3/97)*

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of definitions of “privatization”:

“A very broad term-but most simply, privatization is the transfer of assets or service delivery from the government to the private sector.” *Privatization.org,*

<http://www.privatization.org/database/whatisprivatization.html>

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Utah's definition of privatization:

"Privatization" means action by a state agency to contract with the private sector or with another state agency to perform functions or services currently being performed by it. Utah Code Annotated, 63-55a-1

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of description of related terms:

“‘Commercial activities.’ The activities that the government performs with its employees or resources but could obtain from private-sector sources.”

GAO, July 1997, Terms Related to Privatization Activities and Processes



Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of description of related terms:

“‘Inherently Governmental Activities.’ A government activity that is so intimately related to the public interest that it must be done by government employees.”

GAO, July 1997, Terms Related to Privatization

Activities and Processes

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

## Examples of possible forms of “privatization”:

Contracting out	Management contracts
Managed competition	Franchise
Internal markets	Vouchers
Service shedding	Non-profits
Volunteers	Corporatization
Divestiture	Private infrastructure develop/operate
Deregulation	Grants/subsidies

*NCSL, GAO, Privatization.org*

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

An example of a definition:

“‘Government competition.’ The provision of goods or services to the public by government agencies that are essentially the same as those offered by private enterprise.” *PA, HB 2572 (2005-06 Regular Session)*

Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

An example of a description of issue:

“Review the practices of government agencies and nonprofit organizations that may constitute inappropriate competition with commercial enterprise.” *VA, HB1122 (2006 Session)*



Target



# Numerous Possibilities

- Privatization
- Government competition with private sector

Examples of issues:

- Tax exempt status
- Cost allocation
- Pricing
- Regulation of Activities

*Michigan Chamber of Commerce, Official Policy Relating to Government Competition with the Private Sector, 2001*



# General Information

- Focus of information is on states, although issues also arise on federal and local level
- Because of unclear scope, a comprehensive analysis may be difficult
- There is more information on privatization than on government competition
- Most surveys are older



# 1998 NCSL LegisBrief

7

As of 2/95, states with **competition or privatization commission:**

Arizona  
Florida  
Kentucky  
Maryland  
New Jersey  
Texas  
Utah

35

In 1997, states with **privatization legislation:**

**Examples of topics**

Adoption services  
Advisory boards  
Competitive bidding  
Construction inspection  
Liquor sales  
Parks and recreation  
Police officers  
Infrastructure program  
Task force review

3

At least three states **privatized dept. of motor vehicles.**

**Services historically privatized include**

Construction  
Data processing  
Facility management  
Cleaning  
Printing  
Technical consulting





## 1998 NCSL LegisBrief

- Issues highlighted
  - Alternative of internal management techniques
- Pros and Cons
  - **Proponents:** cost, quality, competition promotes efficiency and effectiveness, expertise, project size may not need full-time government employees
  - **Opposition:** cost, control over service delivery or quality, possible interruptions to services, accountability, cost of emergency or extra services, disruption to government employees
- State law restrictions





## 1997/2003 CSG Surveys

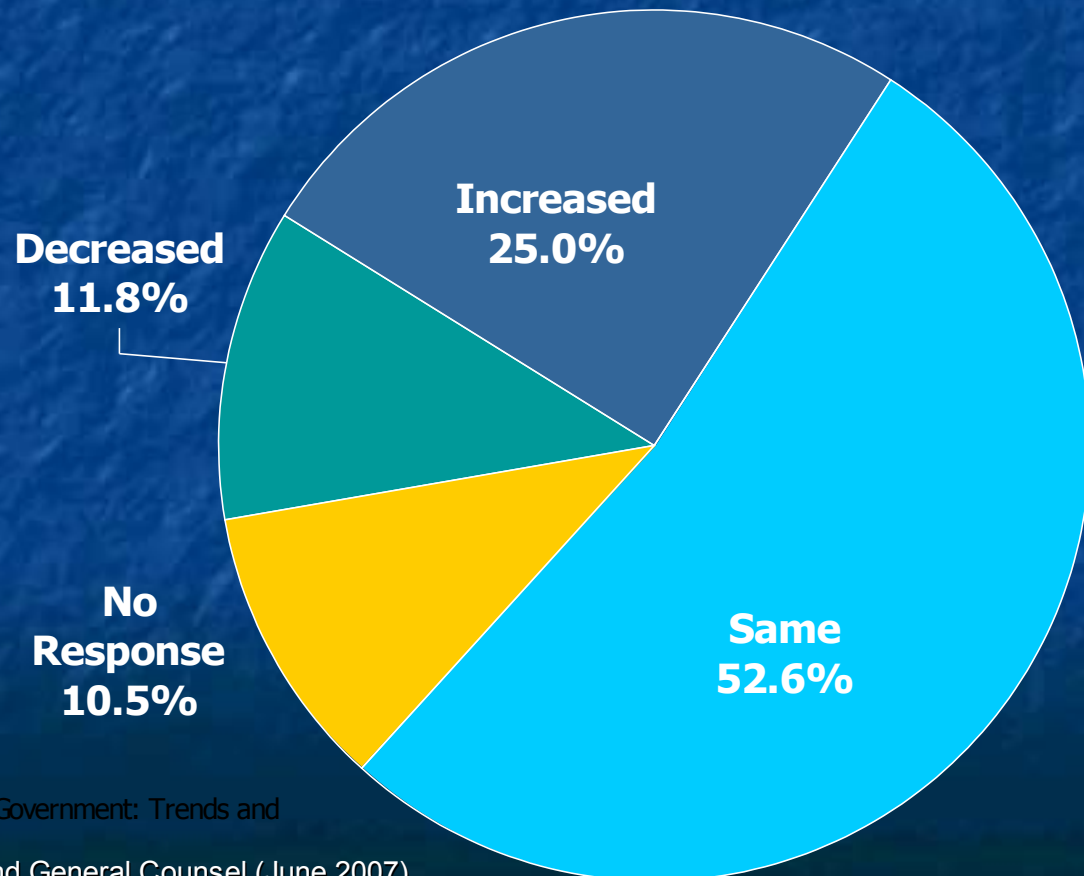
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As of 1997, states with **50 or more privatized programs or services.**

Utah reported 76.

**Fifteen states** reported passing privatization legislation between 1997 and 2002.

**Which of the following best describes the amount of privatization activity?**  
(1998-2002, survey of budget and legislative service directors)





## 1997/2003 CSG Surveys

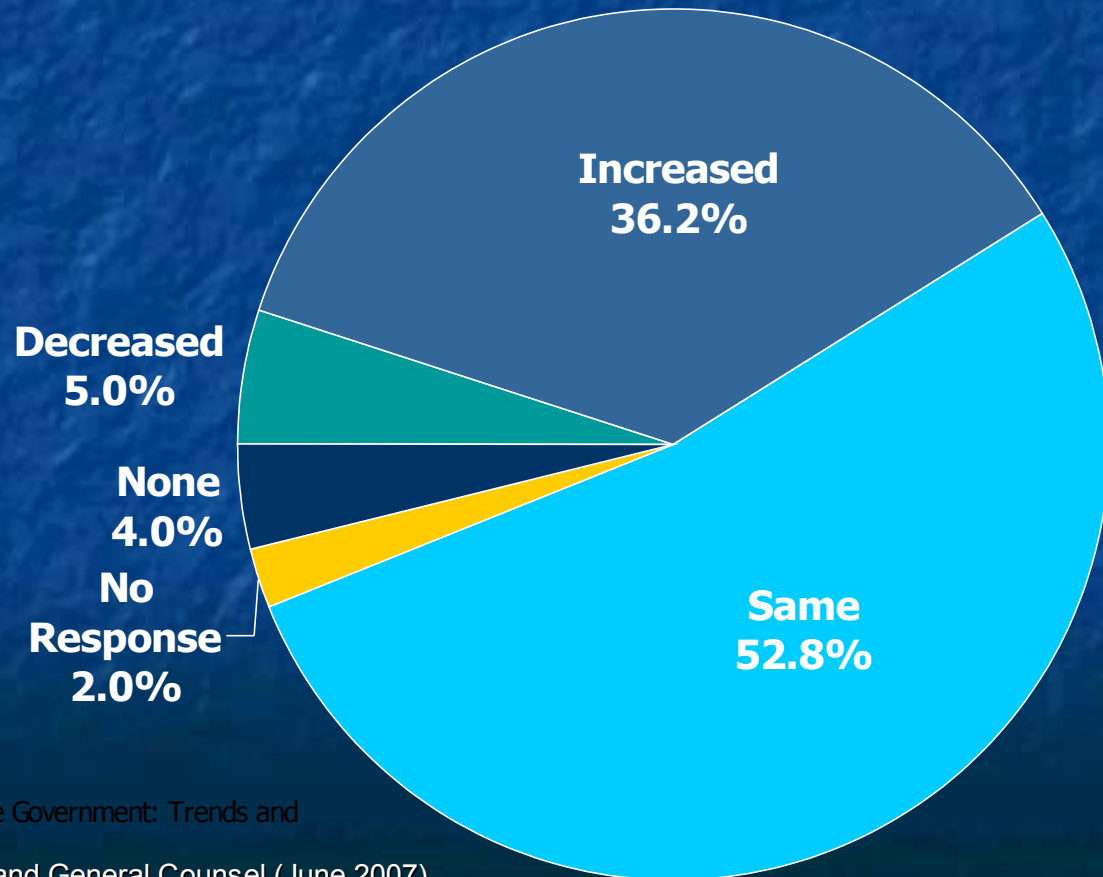
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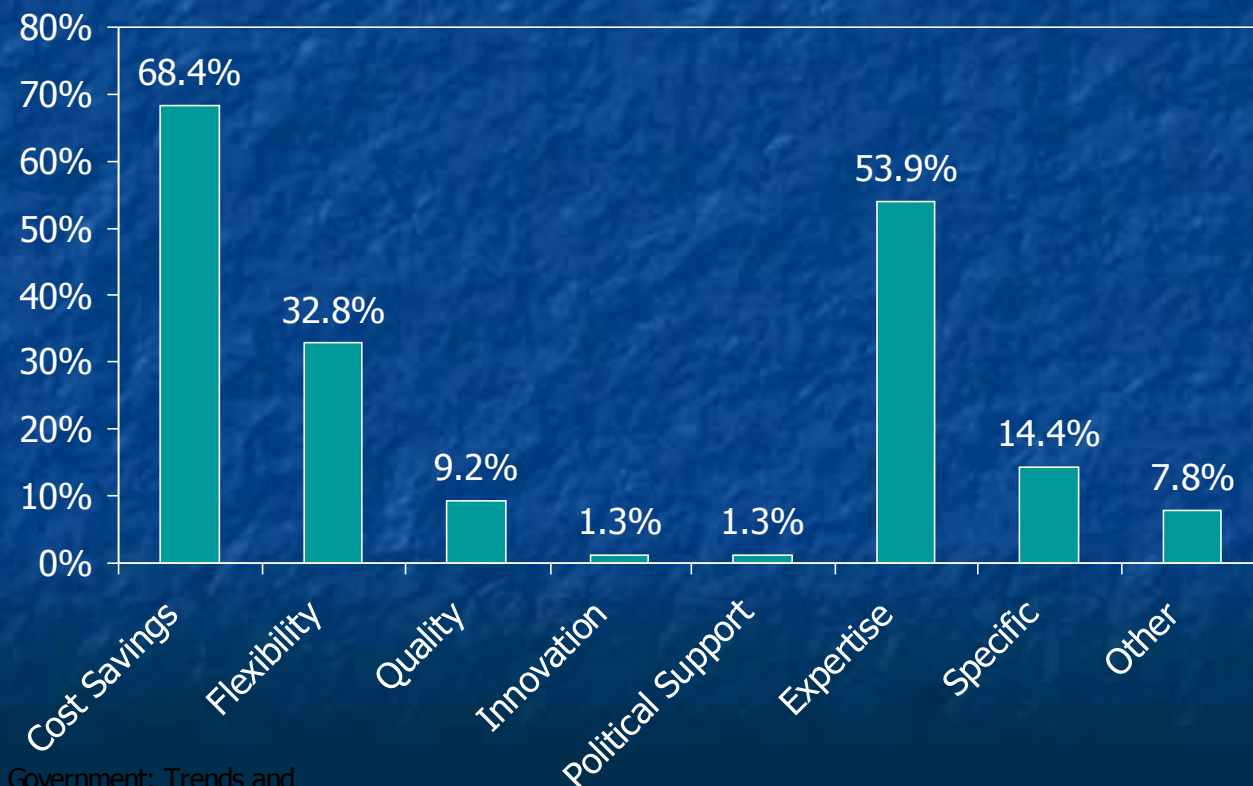
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### What are the primary reasons for privatizing services?

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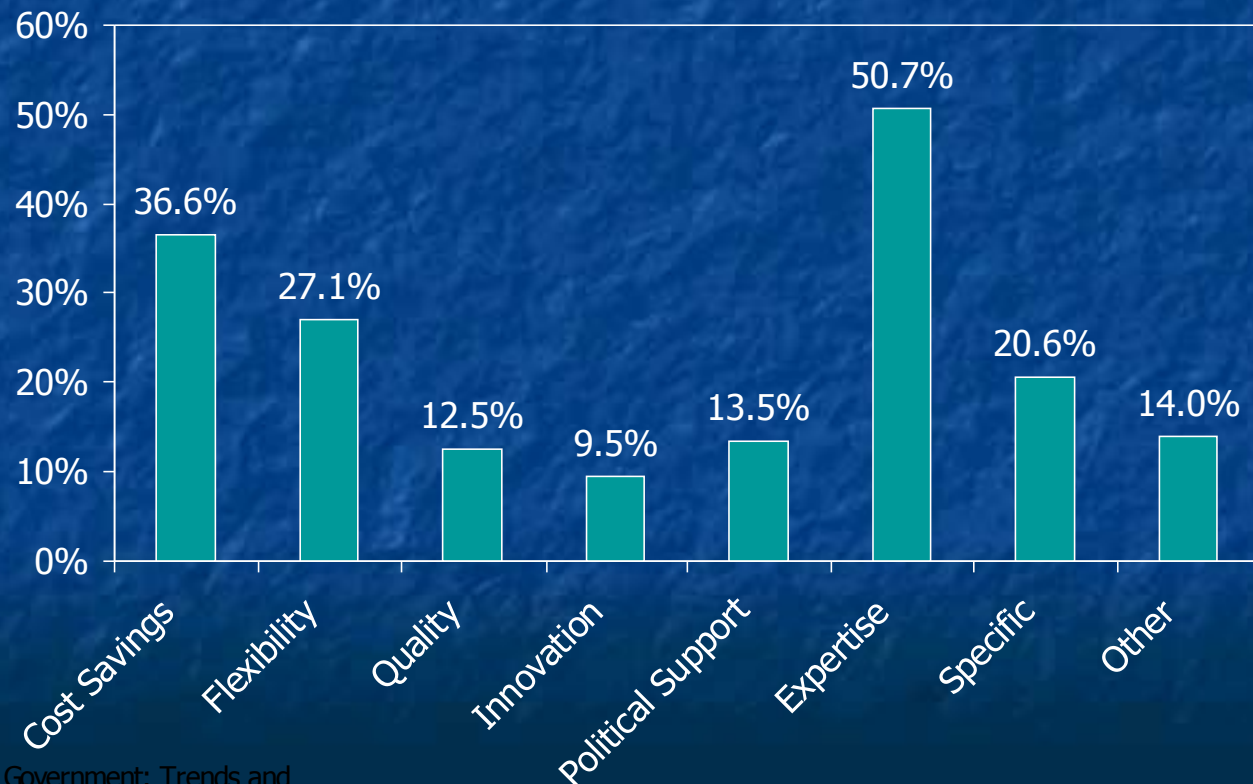
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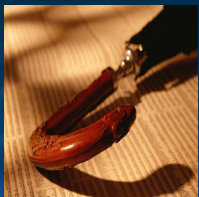
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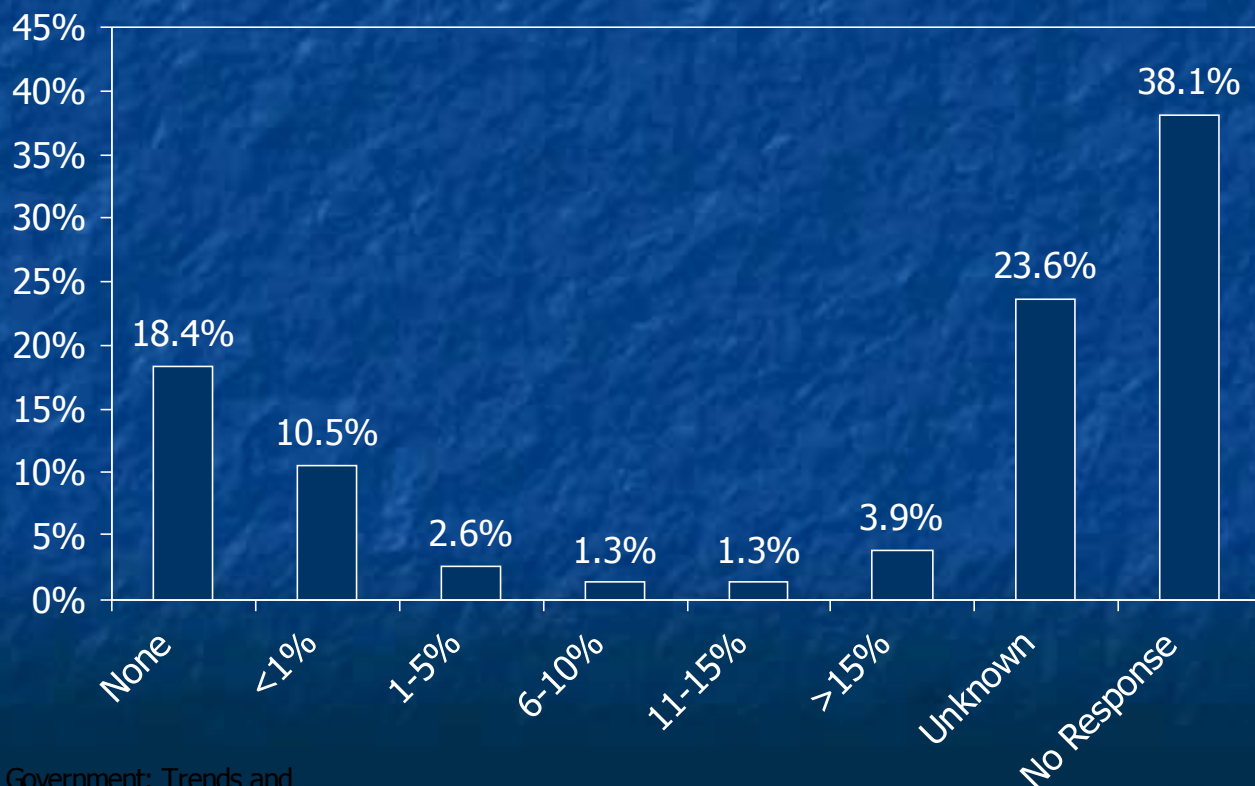
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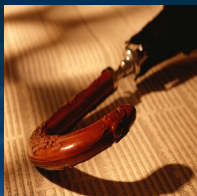
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### What is your state's cost savings percent due to privatization?

(2002, survey of **budget and legislative service directors**)





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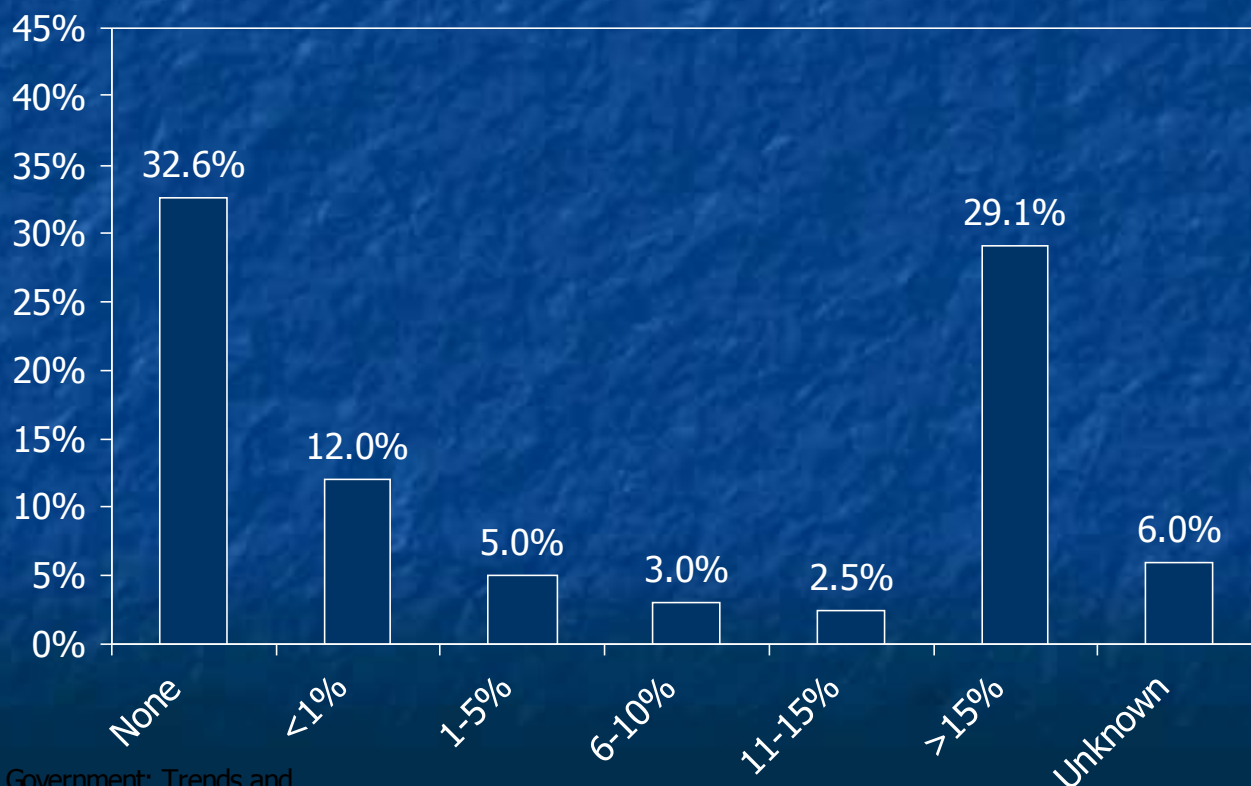
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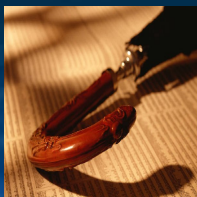
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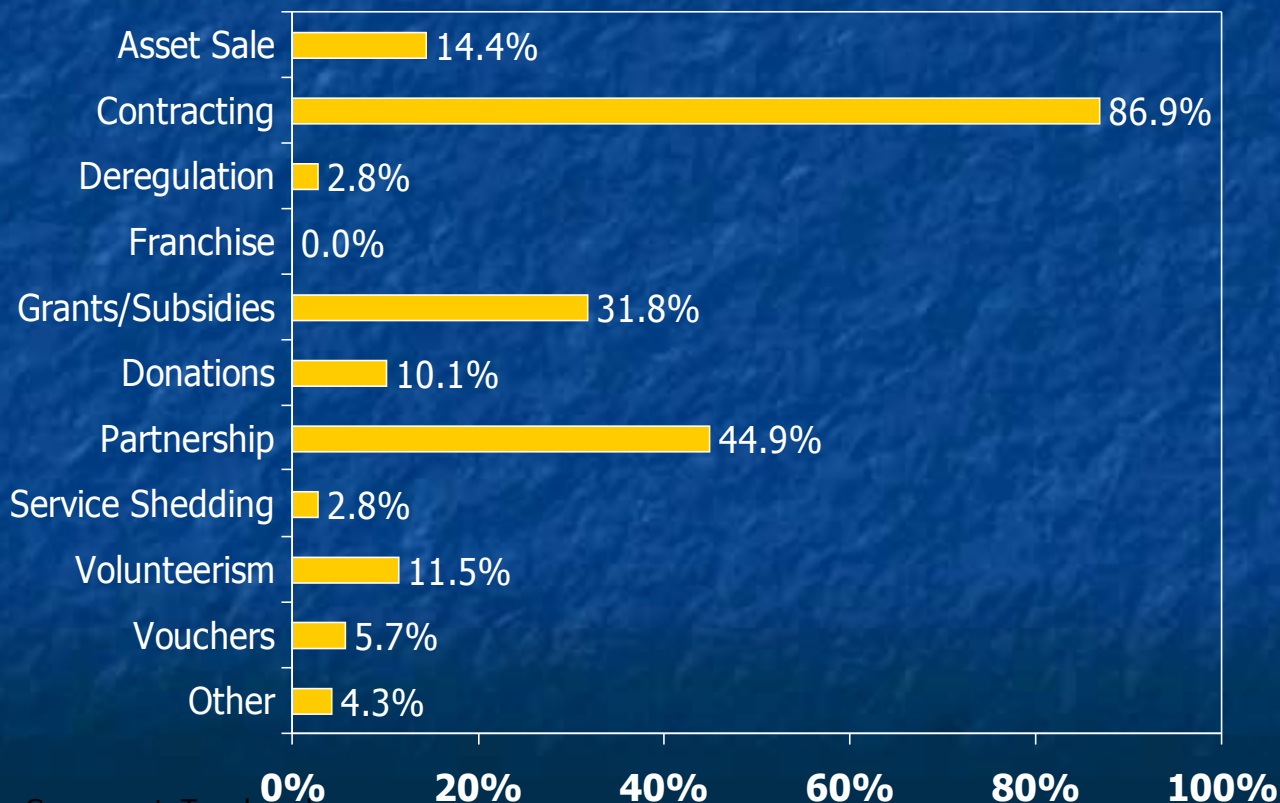
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### Which methods of privatization are used in your state?

(2002 survey of budget and legislative service directors)





## 1997/2003 CSG Surveys

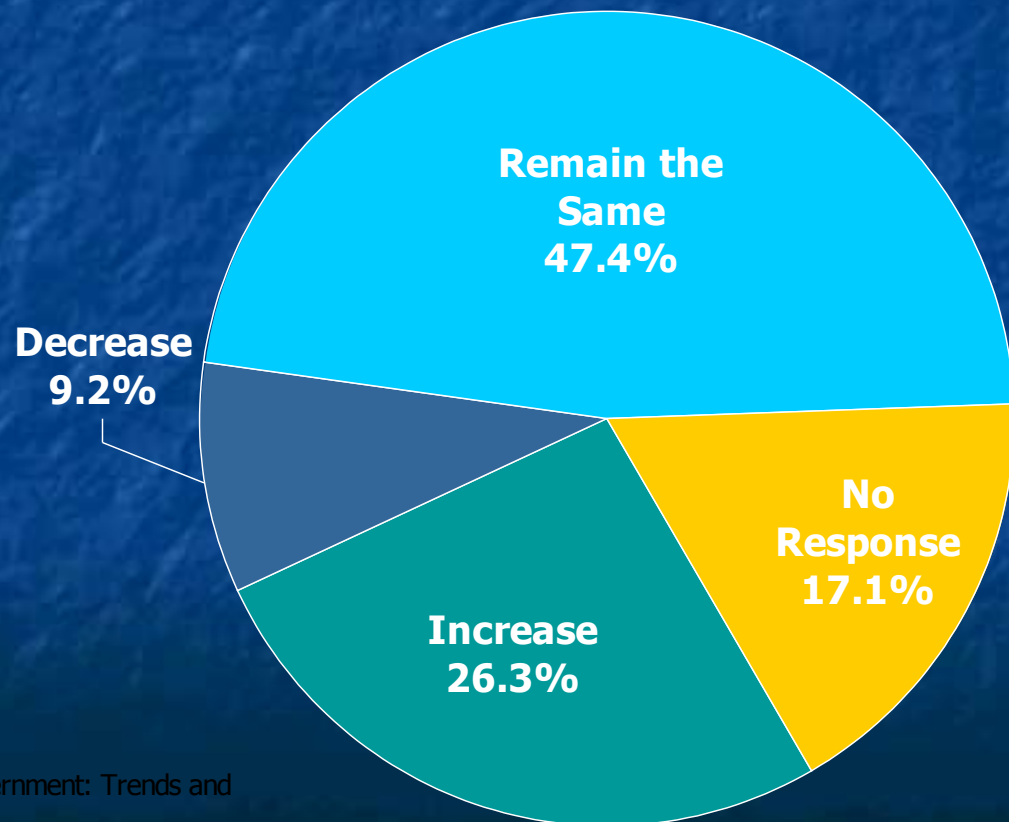
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**What will happen with privatization over the next five years in your state?**  
(2002 survey of budget and legislative service directors)







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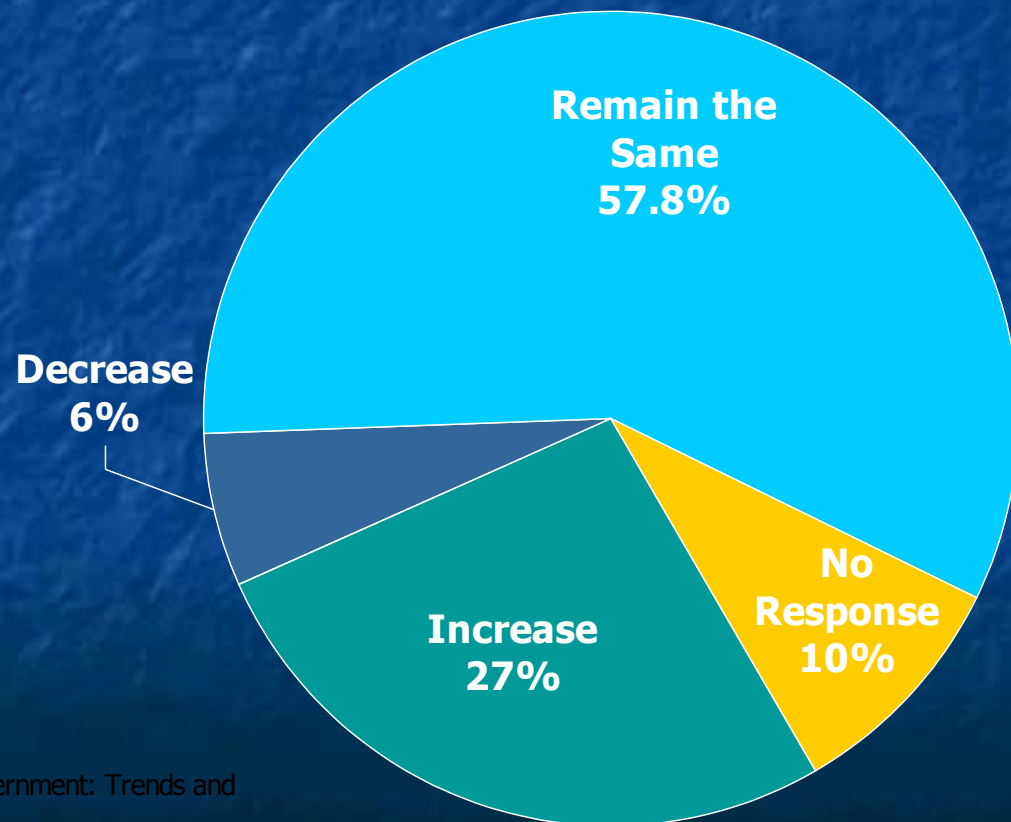
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(2002, survey of **directors of five executive agencies**)





## 2006 Report Reason Found'n

### ■ State Privatization Update: 2006 Legislation

- Connecticut
  - \* ■ Florida
  - \* ■ Georgia
  - ■ Hawaii
  - \* ■ Indiana
  - \* ■ Louisiana
  - ■ Massachusetts
  - ■ Missouri
  - \* ■ New Jersey
  - \* ■ North Carolina
  - \* ■ Pennsylvania
  - \* ■ Utah
  - \* ■ Vermont
  - \* ■ Virginia
- Arguably restrict privatization
- \* Arguably facilitate privatization



# Competition: Arizona

- “Competitive Government Program”
  - Office of Management and Budget (OMB) identifies appropriate functions
  - Agency may be required to do a total cost estimate of a target function
  - Agency may be required to release an RFP for appropriate functions
  - OMB must develop minimum savings criteria





# Privatization: Florida

- “Florida Efficient Government Act”
  - Establishes a Council for Efficient Government made up of executive branch and private sector
  - Requires agencies to prepare a “business case to outsource” to be reviewed by the Council before contracting can occur
  - Recommends state agencies contract “with private sector vendors whenever vendors can more effectively and efficiently provide services and reduce the cost of government”





# Privatization: Florida

- “Correctional Privatization Act”
  - Department of Management Services handles contracting for private correctional services
  - Private firms must:
    - Maximize cost savings
    - Demonstrate ability to provide quality service
    - Comply with applicable laws and standards



# Privatization: Oklahoma

- “Oklahoma Privatization of State Functions Act”
  - Before an agency privatizes a function valued more than \$100,000, a cost analysis must be provided to the Department of Central Services
  - The Department evaluates the privatization proposal to see if it is:
    - cost effective and
    - in the best interest of the citizens



# Privatization: Texas

- “State Council on Competitive Government”
  - Membership
    - Governor
    - Lieutenant Governor
    - Comptroller
    - Speaker of the House of Representatives
    - Commissioner of State Purchasing
    - Commissioner of Workforce Services
  - If the speaker of the House of Representatives is not permitted by the constitution to serve as a voting member of the council, the speaker serves as a nonvoting member





# Privatization: Texas

- “State Council on Competitive Government”
  - Determines commercially available services
  - Requires agencies to study commercially available services
  - Requires appropriate services to be submitted to a competitive bidding process
  - Awards contract to best and most reasonable bidder (may be state agency)





# Privatization: Virginia

- “Commonwealth Competition Council”
  - Similar in composition to Utah’s PPB
  - Charged to:
    - Examine and promote methods to provide state programs and services through the private sector
    - Determine privatization potential through performance analysis
    - Report findings to governor and legislature
  - Governor or legislature can require agency analysis of qualifying proposals



# Privatization: Virginia

- “Commonwealth Competition Council”
  - Published *1999 Commercial Activities Inventory*
    - Surveyed state agencies and institutions to determine what commercial activities conducted by state personnel
    - Defined ‘Commercial activity’ as performing services or providing goods that can normally be obtained from private enterprise



# Privatization: Virginia

- “Competitive Government Act”
  - Requires updated commercial activities list and list of inherently governmental functions
  - Requires governor to identify at least three commercial activities for assessment each biennium
  - Requires governor to competitively bid services where assessment shows outsourcing could accomplish them more efficiently and effectively





# Competition: Maine

- “Advisory Committee on Fair Competition with Private Enterprise”
  - Created in 2000 by Maine Legislature to assist state government in responding to concerns raised by the public regarding government competition with private enterprise
  - Membership
    - 3 representatives of state government
    - 1 representative of state employees
    - 3 representatives of the private sector
    - 2 representatives of the public





# Competition: Maine

- “Advisory Committee on Fair Competition with Private Enterprise”
  - Reviews complaints from private enterprise
  - Makes recommendations to governor and legislature
  - Approves agency requests to provide additional services and goods that are not otherwise allowed by law, and may compete with private enterprise



# Competition: Arizona / Colorado

- Competition by Colleges and Universities
  - Requires a college and university to hear a complaint of unfair competition from the private sector
  - Exceptions
    - Some services provided by health science centers
    - Free medical services or equipment for indigents
    - Public service radio and television



# Principles: 1997 GAO Study of State Privatization Efforts

- Political champion
- Implementation structure
- Legislative and resource changes
- Reliable cost data
- Strategies for workforce transition
- Monitoring and oversight